

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

DONALD MILTON BOYSAW,

Plaintiff,

v.

CIVIL ACTION NO. 5:13-cv-24019

CHARLES E. SAMUELS, JR., et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

The Plaintiff filed his Complaint in this matter on September 30, 2013 (Document 2), and the Complaint was amended on October 31, 2013 (Document 4). Subsequently filed were the Defendants' March 17, 2014, Motion to Dismiss (Document 37), and the Plaintiff's April 21, 2014, Motion for Summary Judgment (Document 42).

By Memorandum Opinion and Order (Document 41) entered on April 4, 2014, this action was referred back to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On October 9, 2014, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 45) wherein it is recommended that this Court grant the Defendants' Motion to Dismiss, deny the Plaintiff's Motion for Summary Judgment, dismiss the Plaintiff's Complaint, and remove this matter from the Court's docket.


Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were originally due by October 27, 2014. However, by Order (Document 48) entered October 24, 2014, the Court granted the Plaintiff an extension of time until November 24, 2014, within which to file objections. Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Defendants' Motion to Dismiss (Document 37) be **GRANTED**, the Plaintiff's Motion for Summary Judgment (Document 42) be **DENIED**, the Plaintiff's Complaint (Documents 2 & 4) be **DISMISSED**, and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: December 1, 2014

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA